

subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than \$25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than \$50,000 or imprisoned for not more than two years, or both, for any subsequent offense''.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 6 months after Dec. 1, 1990, see section 610 of Pub. L. 101-650, set out as an Effective Date note under section 106A of this title.

#### CROSS REFERENCES

Acts of infringement subject to this section—

Making and distributing phonorecords, see section 115 of this title.

Secondary transmission of primary transmission, see section 111 of this title.

Costs or prosecution taxable in non-capital proceedings, see section 1918 of Title 28, Judiciary and Judicial Procedure.

Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works, see section 2318 of Title 18, Crimes and Criminal Procedure.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 109, 111, 115, 119, 411, 501, 509 of this title; title 18 section 2319; title 19 section 1595a.

### § 507. Limitations on actions

(a) **CRIMINAL PROCEEDINGS.**—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) **CIVIL ACTIONS.**—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

#### HISTORICAL AND REVISION NOTES

##### HOUSE REPORT NO. 94-1476

Section 507, which is substantially identical with section 115 of the present law [section 115 of former title 17], establishes a three-year statute of limitations for both criminal proceedings and civil actions. The language of this section, which was adopted by the act of September 7, 1957 (71 Stat. 633) [Pub. L. 85-313, § 1, Sept. 7, 1957, 71 Stat. 633], represents a reconciliation of views, and has therefore been left unaltered.

#### CROSS REFERENCES

Limitation on prosecution, trial, or punishment of non-capital offenses generally, see section 3282 of Title 18, Crimes and Criminal Procedure.

### § 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of

each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

#### HISTORICAL AND REVISION NOTES

##### HOUSE REPORT NO. 94-1476

Section 508, which corresponds to some extent with a provision in the patent law (35 U.S.C. 290), is intended to establish a method for notifying the Copyright Office and the public of the filing and disposition of copyright cases. The clerks of the Federal courts are to notify the Copyright Office of the filing of any copyright actions and of their final disposition, and the Copyright Office is to make these notifications a part of its public records.

### § 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise;<sup>1</sup> and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

<sup>1</sup> So in original. The semicolon probably should be a comma.

## CROSS REFERENCES

Acts of infringement subject to this section—

Making and distributing phonorecords, see section 115 of this title.

Secondary transmission of primary transmission, see section 111 of this title.

Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works, see section 2318 of Title 18, Crimes and Criminal Procedure.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 111, 115, 119, 411 of this title; title 18 section 2318; title 19 section 1595a.

### § 510. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) When an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

## HISTORICAL AND REVISION NOTES

## HOUSE REPORT NO. 94-1476

Section 509(b) specifies a new discretionary remedy for alteration of programming by cable systems in violation of section 111(c)(3): the court in such cases may decree that, “for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.” The term “distant signals” in this provision is intended to have a meaning consistent with the definition of “distant signal equivalent” in section 111.

Under section 509(a), four types of plaintiffs are entitled to bring an action in cases of alteration of programming by cable systems in violation of section 111(c)(3). For regular copyright owners and local broadcaster-licensees, the full battery of remedies for infringement would be available. The two new classes of potential plaintiffs under section 501(d)—the distant-signal transmitter and other local stations—would be limited to the following remedies: (i) discretionary injunctions; (ii) discretionary costs and attorney’s fees; (iii) any actual damages the plaintiff can prove were attributable to the act of altering program content; and (iv) the new discretionary remedy of suspension of compulsory licensing.

## CROSS REFERENCES

Secondary transmission of primary transmission as subject to this section, see section 111 of this title.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 119, 411, 511 of this title.

### § 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney’s fees under section 505, and the remedies provided in section 510.

(Added Pub. L. 101-553, § 2(a)(2), Nov. 15, 1990, 104 Stat. 2749.)

## EFFECTIVE DATE

Section effective with respect to violations that occur on or after Nov. 15, 1990, see section 3 of Pub. L. 101-553, set out as an Effective Date of 1990 Amendment note under section 501 of this title.

## CHAPTER 6—MANUFACTURING REQUIREMENTS AND IMPORTATION

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| Sec. |   |
| 601. | Manufacture, importation, and public distribution of certain copies.        |
| 602. | Infringing importation of copies or phonorecords.                           |
| 603. | Importation prohibitions: Enforcement and disposition of excluded articles. |

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 912 of this title.

### § 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1986, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic<sup>1</sup>

<sup>1</sup> So in original. Probably should be “nondramatic”.